

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

**STIPULATION AND ORDER WITHDRAWING SUBPOENA
FOR RULE 2004 EXAMINATION AND RELATED OBJECTION**

WHEREAS, on June 8, 2018, Irving H. Picard, as trustee (the “Trustee”) for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the estate of Bernard L. Madoff, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-III, served a Subpoena for Rule 2004 Examination compelling FJANCW, LLC (“FJAN”) to produce documents (the “Rule 2004 Subpoena”);

WHEREAS, on June 18, 2018, Frank and Nancy Avellino (the “Avellinos”) objected to the Rule 2004 Subpoena by filing their Objection to Subpoena for Rule 2004 Examination in the above-referenced proceeding (the “Avellinos Objection”) (ECF No. 17694);

WHEREAS, that same day, FJAN filed a motion to quash the Rule 2004 Subpoena in the United States Bankruptcy Court for the Southern District of Florida (“FJAN Motion to Quash”)

(ECF No. 17694-4), which was attached as Exhibit C to the Avellinos Objection;

WHEREAS, a Notice of Hearing was filed on June 19, 2018, for the FJAN Motion to Quash scheduling a hearing for June 27, 2018, in the United States Bankruptcy Court for the Southern District of Florida (the “Motion to Quash Hearing”);

WHEREAS, on June 21, 2018, the Trustee and counsel for the Avellinos and FJAN met and conferred regarding the Rule 2004 Subpoena, the Avellinos Objection, the FJAN Motion to Quash, and the Motion to Quash Hearing;

WHEREAS, the Trustee has agreed to withdraw the Rule 2004 Subpoena without prejudice, rendering the Avellinos Objection and the FJAN Motion to Quash moot, and obviating the need for the Motion to Quash Hearing;

WHEREAS, counsel for the Avellinos and FJAN has agreed to withdraw the Avellinos Objection and FJAN Motion to Quash without prejudice.

IT IS HEREBY STIPULATED AND AGREED, by the undersigned counsel herein, that,

1. The Rule 2004 Subpoena is withdrawn without prejudice.
2. The Avellinos Objection (ECF No. 17694) is withdrawn as moot without prejudice.
3. The parties to this stipulation reserve all rights they may have related to the Rule 2004 Subpoena, the Avellinos Objection, and the FJAN Motion to Quash, and agree that entry into this stipulation shall not impair, waive or otherwise affect any such rights.
4. This Court retains jurisdiction to hear and determine all matters arising from or related to this Stipulation and Order.

Dated: June 25, 2018
New York, New York

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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the estate of Bernard L. Madoff*

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Attorney for Frank Avellino and Nancy Avellino

SO ORDERED:

Dated: June 25, 2018
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE